



UNITED STATES PATENT AND TRADEMARK OFFICE

PR
UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/272,190	03/18/1999	JACK H. WILSON SR.	PA-92	5336

7590 11/27/2001

MEREK AND VOORHEES
643-B SOUTH WASHINGTON STREET
ALEXANDRIA, VA 22314

EXAMINER

MARKOVICH, KRISTINE M

ART UNIT	PAPER NUMBER
----------	--------------

3671

DATE MAILED: 11/27/2001

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.
09/272,190

Applicant(s)
Jack H. Wils n Sr.

Examiner
Kristine Mark vich

Art Unit
3671



— The MAILING DATE of this communication appears on the cover sheet with the correspondence address —

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☒ Responsive to communication(s) filed on Sep 18, 2001

2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 35 C.D. 11; 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) 20-39 is/are pending in the applica

4a) Of the above, claim(s) _____ is/are withdrawn from considera

5) ☐ Claim(s) _____ is/are allowed.

6) ☒ Claim(s) 20-39 is/are rejected.

7) ☐ Claim(s) _____ is/are objected to.

8) ☐ Claims _____ are subject to restriction and/or election requirem

Application Papers

9) ☐ The specification is objected to by the Examiner.

10) ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.

11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved.

12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

a) ☐ All b) ☐ Some* c) ☐ None of:

1. ☐ Certified copies of the priority documents have been received.

2. ☐ Certified copies of the priority documents have been received in Application No. _____.

3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

*See the attached detailed Office action for a list of the certified copies not received.

14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

15) ☒ Notice of References Cited (PTO-892)

18) ☐ Interview Summary (PTO-413) Paper No(s). _____

16) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

19) ☐ Notice of Informal Patent Application (PTO-152)

17) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____

20) ☐ Other:

Art Unit: 3671

Claim Rejections - 35 U.S.C. § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 20, 22, 23 and 27 are rejected under 35 U.S.C. 103(a) as being unpatentable over *Concrete Solutions* (Internet web-site; www.concretesolutions.com) in view of Reed et al. (US Patent 5,079,095).

Concrete Solutions discloses a method of resurfacing roads (page 5/13) by applying wet polymer modified concrete (page 1/13) over a layer of pavement. Application of the polymer modified concrete is done using a squeegee to apply a 1/16 to 1/8 inch thickness (page 1/13).

Concrete Solutions discloses the claimed device except for applying a layer of rock chips over the concrete layer. Reed et al. discloses that it is known in the art to provide rock chips (column 2, lines 37-40) in order to reduce hazardous road surface conditions. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the resurfacing method of *Concrete Solutions* with the rock chips of Reed et al., in order to reduce hazardous road surface conditions.

Although Reed et al. does not specifically state that the rock chips are placed into the concrete by blowing, it would have been obvious to one of ordinary skill to use this procedure to accomplish embedding the rock chips, since it is well known in the art that the rock chips need to be firmly adhered to the concrete in order to provide the desired surface properties and air

Art Unit: 3671

blowing effectively distributes the material over a wide area. Regarding the specific size of the rock chips, examiner takes Official Notice that it is well known in the art that rock chips smaller than a quarter of an inch are commonly used for sealing roadways.

3. Claims 21, 24, 25, and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over *Concrete Solutions* in view of Reed et al. as applied to claim 20 above, and further in view of Cobb (US Patent 5,447,752).

The combination of paragraph 2 above discloses the claimed device except for repeating the layering process over a hardened first layer. Cobb discloses that it is known in the art to provide a second layer (12, 14; figure 1) in order to change the properties of the surfacing material. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the resurfacing method of the combination of paragraph 2 above with the layering of Cobb, in order to change the properties of the surfacing material.

4. Claim 26 is rejected under 35 U.S.C. 103(a) as being unpatentable over *Concrete Solutions* in view of Reed et al. as applied to claim 20 above, and further in view of Wilson, Sr. (US Patent 5,749,674).

The combination of paragraph 2 above discloses the claimed device except for filling an existing pothole. Wilson, Sr. discloses that it is known in the art to fill an existing pothole before applying a surfacing layer (figures 1a-f) in order to provide a smooth layer on which to apply the surfacing compound. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the resurfacing method of the combination of paragraph

Art Unit: 3671

2 above with the step of pothole filling of Wilson, Sr., in order to provide a smooth layer on which to apply the surfacing compound.

5. Claims 29-31 are rejected under 35 U.S.C. 103(a) as being unpatentable over *Concrete Solutions* in view of Reed et al. and Barton (US Patent 3,775,018).

Concrete Solutions discloses a method of resurfacing roads (page 5/13) by applying wet polymer modified concrete (page 1/13) over a layer of pavement. Application of the polymer modified concrete is done using a squeegee to apply a 1/16 to 1/8 inch thickness (page 1/13).

Concrete Solutions discloses the claimed device except for applying a layer of rock chips over the concrete layer. Reed et al. discloses that it is known in the art to provide rock chips (column 2, lines 37-40) in order to reduce hazardous road surface conditions. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the resurfacing method of *Concrete Solutions* with the rock chips of Reed et al., in order to reduce hazardous road surface conditions.

Concrete Solutions discloses the claimed device except for anti-ponding lines. Barton discloses that it is known in the art to provide anti-ponding lines (column 1, lines 31-46) perpendicular to travel in order to promote drainage and increase the frictional properties of the road surface. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the pavement of *Concrete Solutions* with the anti-ponding lines of Barton, in order to promote drainage and increase the frictional properties of the road surface. Regarding the specific distance between anti-ponding lines, examiner takes Official Notice that it is old and well known in the art to apply anti-ponding lines at varying distances based on location of the roadway, general climate conditions, etc.

Art Unit: 3671

6. Claims 32, and 36-39 are rejected under 35 U.S.C. 103(a) as being unpatentable over *Concrete Solutions* in view of Cobb and Jones (US Patent 5,700,385).

Concrete Solutions discloses a method of resurfacing roads (page 5/13) by applying wet polymer modified concrete (page 1/13) over a layer of pavement.

Concrete Solutions discloses the claimed device except for repeating the layering process over a hardened first layer. Cobb discloses that it is known in the art to provide a second layer (12, 14; figure 1) in order to change the properties of the surfacing material. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the resurfacing method of *Concrete Solutions* with the layering of Cobb, in order to change the properties of the surfacing material.

Concrete Solutions discloses the claimed device except for electrical heating elements. Jones discloses that it is known in the art to provide electrical heating elements (column 1, lines 14-26) in order to prevent the accumulation of snow and ice on driving surfaces. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the concrete structure of *Concrete Solutions* with the electrical heating elements of Jones, in order to prevent the accumulation of snow and ice on driving surfaces.

Regarding claims 34, 35, and 37, it would have been an obvious extension of the teachings of *Concrete Solutions* to apply the first layer of concrete to cover the wheel lanes of the road surface in order to reinforce the area of the road that receives the most wear from traffic.

Regarding claims 38 and 39, it would have been obvious to one having ordinary skill in the art at the time the invention was made to connect an electrical heating element to a power

Art Unit: 3671

source such as a battery or photovoltaic energy source in order to provide power to the element and maintain the elements in working condition.

7. Claim 33 is rejected under 35 U.S.C. 103(a) as being unpatentable over *Concrete Solutions* in view of Cobb and Jones as applied to claim 32 above, and further in view of Reed et al.

The combination of paragraph 6 above discloses the claimed device except for applying a layer of rock chips over the concrete layer. Reed et al. discloses that it is known in the art to provide rock chips (column 2, lines 37-40) in order to reduce hazardous road surface conditions. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the resurfacing method of the combination of paragraph 6 above with the rock chips of Reed et al., in order to reduce hazardous road surface conditions.

8. Claim 34 and 35 is rejected under 35 U.S.C. 103(a) as being unpatentable over *Concrete Solutions* in view of Cobb and Jones as applied to claim 32 above, and further in view of Gemmer (US Patent 4,941,770).

The combination of paragraph 6 above discloses the claimed device except for copper wires in the heating elements. Gemmer discloses that it is known in the art to provide copper wires in heating elements (column 2, line 58- column 3, line 30). It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the resurfacing method of the combination of paragraph 6 above with the copper wires of Gemmer, in order to reduce hazardous road surface conditions.

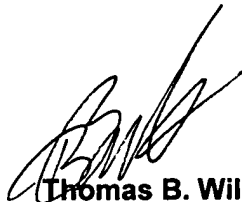
Art Unit: 3671

Conclusion

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kristine M. Markovich whose telephone number is (703) 305-1676. The examiner can normally be reached on Mon-Fri from 8:00 am to 5:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas B. Will, can be reached on (703) 308-3780. The fax phone number for this Group is (703)305-3597.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 305-1113.



Thomas B. Will
Supervisory Patent Examiner
Group 3600



KMM

November 18, 2001